Potential Areas Identified by the Contact Groups

Any potential areas for intersessional work compiled by the co-facilitators of the two contact groups to inform the work of INC-3.

<table>
<thead>
<tr>
<th>Name of organization (for observers to the committee)</th>
<th>ALLIANCE POUR LE CONTROLE DU TABAC EN AFRIQUE (ACTA), a member of the Stop Tobacco Pollution Alliance (STPA)</th>
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<tr>
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<td>Date of submission</td>
<td>14 August 2023</td>
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Input on the potential areas of intersessional work to inform the work of INC-3

Cigarette butts top the list of plastic items that comprise (33%) total debris (33%) collected in ocean clean-ups and municipal litter collection. Cigarette butts are also one of the most common plastic items floating in the harbors (29%) and sinking in the seabed (5.14%). Over 4.5 trillion cigarette butts are littered annually, making them consistently the topmost littered item in coastal clean-ups. This number will not go down for as long as the tobacco industry continues to impede tobacco control efforts in governments worldwide.

The future UN Plastics instrument should further the public health, environment, and human rights objectives of the World Health Organisation Framework Convention on Tobacco Control (WHO FCTC). It must be consistent with the global health treaty, which over 180 Parties implement. Failure to take the WHO FCTC into account could lead to environmental policies that undermine public health. The following inputs to the areas of intersessional work could help attain both environmental and health objectives of the future instrument:

Areas covered by Contact Group 1:

1. Information on definitions of, e.g., plastics, microplastics, circularity

Definition of Plastics/Microplastics

The definition of microplastics must be broad enough to cover macroplastics that rapidly release microfibers, such as cigarette filters which consist of densely packed microplastic fibers. It should also include a special category of highly toxic or hazardous plastics which should be the subject of an immediate ban.

The cellulose acetate in cigarette filters is considered a macroplastic that sheds microplastic into the environment during use and disposal. An estimated 0.3 million tons of cellulose acetate filters are disposed of annually across the globe, and a typical filter releases approximately 100 microplastic fibers a day (less than 0.2 mm in size).

Cigarette butts can leach a wide range of pollutants and toxic metals. The leachates include nicotine, aromatic amines, and nitrosamines; polycyclic aromatic hydrocarbons (PAH); metals; BTEX compounds,
including benzene, toluene, ethylbenzene, o-xylene, and p-xylene; and phenols. Cigarette butts can also be a source of several pollutants in the atmosphere, including alcohols, carbonyls, hydrocarbons, and pyrazines. Hence, cigarette butts should be categorized as hazardous waste. 

It bears stressing that tobacco is the only consumer product that has no beneficial use to society and that incurs a net economic loss to the tune of at least 1.4 trillion per year for the world economy. Cigarette filters are also considered fraudulent and defective accessories to a deadly product. They are designed to give users a false impression that they filter out toxins. However, they release plastic fibers when used, and have been linked to a more aggressive form of lung cancer.

**Definition ofCircularity**

The definition of circularity should consider conflicts of interests and particularly, provide an exception for tobacco, the tobacco industry, or tobacco control. This is because the tobacco industry can use any form of redesign (for recycling and biodegradability) to promote its products to sustain smoking. Noting that Articles 9 and 10 of the WHO FCTC urge Parties to prohibit any attractive design feature, any novel substitute to the current filter design should be deemed an attractive design feature that would entice consumption.

There is no safe alternative or substitute for cigarette butts. Cigarettes will remain toxic and lethal; hence cigarette butts of any form will continue to retain some of the thousands of chemical and heavy metals. Allowing the tobacco industry to redesign its product under a circular economy would be tantamount to encouraging tobacco use and downplaying the release of toxic chemicals and heavy metals into the environment.

Cigarette butts cannot be safely and efficiently recycled. Removing toxins from hazardous material is a very tedious, resource-intensive process. Those in the business of recycling cigarette butts have not guaranteed the recycled output's long-term safety and typically do not disclose the treatment process. In any case, energy-intensive processes like pyrolysis or similar treatment will not likely be feasible or scalable in LMICs where most cigarette butts are littered. Current efforts to recycle disposed cigarette butts covers only an iota of the massive amount of waste; and fails to make a dent on addressing tobacco’s toxic pollution in the marine environment.

Providing a stewardship role for the industry, such as through Extended Producer Responsibility schemes (EPR), is not countenanced by the WHO FCTC. The WHO FCTC obliges Parties to protect public health policies from the commercial and vested interests of the tobacco industry. Its Guidelines provide that "The tobacco industry should not be a partner in any initiative linked to setting or implementing public health policies, given that its interests are in direct conflict with the goals of public health." Furthermore, the so-called socially responsible activities of the tobacco industry should be denormalized because the tobacco industry's corporate social responsibility activities are an inherent contradiction. The tobacco industry is incapable of being "socially responsible" and thus cannot have "producer responsibility" or environment stewardship roles. The tobacco industry is not considered a stakeholder and should not participate in policy development and/or implementation schemes. Instead, it should be mandated to pay for the damages caused.

2. **Information on criteria, also considering different applications and sectoral requirements,**

including:
a. **Chemical substances of concern in plastics,**

The criteria for chemical substances of concern should be broad. It should include not just the substances used to produce the plastic but also the chemical substances absorbed during the use and disposal of the plastic.

Cigarette smoke contains about 7000 chemicals, of which at least 250 are harmful and 69 cause cancer.\(^{32}\) Around 800 chemical constituents have been detected in cigarette butt leachates\(^{33}\) that cause harm to ecosystems and organisms. Disposed cigarette butts have a very high absorptive capacity and could easily absorb nanoparticles,\(^{34}\) potentially including toxic nanoparticles.

b. **Problematic and avoidable plastic polymers and products and related applications**

The criteria for problematic and avoidable plastic polymers and products should be expanded to include a specific category for toxic or hazardous plastic that should be banned immediately.

Given the hazardous and ubiquitous nature of cigarette filters and the evidence-based treaty regulations covering the tobacco industry, the cigarette filters/butts and other plastics produced by the tobacco industry should be considered problematic and avoidable plastic that must be subject to an immediate ban\(^{35}\).

c. **Design, e.g., for circularity, reuse**

See the above discussion on Circularity.

d. **Substitutes and alternatives to plastic polymers and products**

The most important criteria for substitutes and alternatives are safety, both for health and for the environment. Governments should avoid alternatives with no known track record for safety and/or those provided by entities not made accountable for harms.

Any substitute for cigarette filters, such as biodegradable or similar options, could risk undermining tobacco control regulations, particularly tobacco advertising promotion and sponsorship bans (Article 13 of the WHO FCTC). Changes to the filter design could further generate misinformation that cigarettes can be safe.\(^{36}\) The new feature would inevitably serve as a marketing tool and undermine tobacco control measures (advertising bans) that are in place;\(^{37}\) consequently increasing tobacco consumption and related deaths. Even biodegradable filters could continue to leak toxic chemicals into the environment if not properly disposed of,\(^{38}\) causing harm to the soil biosystem\(^{39}\) as well as marine invertebrates.\(^{40}\)

The tobacco industry knew for decades that plastic filters cause plastic fibers to fall out when used\(^{41}\). Allowing the tobacco industry to substitute the current filter could inevitably enable it to cover up its decades of deception\(^{42}\) and avoid liability for the health and environmental harm caused by a product accessory that is deliberately flawed in design.\(^{43}\) Notably, the WHO FCTC urges parties to support each other in holding the tobacco industry liable.\(^{44}\) Hence, the tobacco industry should be punished for its role in propagating health and environmental harms and impeding sustainable development\(^{45}\). It should not be treated as a partner in development and should not be relied on to provide innovative solutions to the fraud perpetuated.
Areas covered by Contact Group 2:

1. To consider the potential role, responsibilities, and composition of a science and technical body [to support negotiation and/or implementation of the agreement]

Considering the various aspects of the UN Plastics Treaty that could contravene the WHO FCTC (See Annex of the STPA’s UNEP Options Paper: Impact on Tobacco Control), a science and technical body on tobacco can be convened under the auspices of or with support from the WHO FCTC Secretariat. This could provide the appropriate technical input to the INC.

2. To consider the potential scope of and guidance for National Action Plans

National Action Plans addressing plastics should consider the National Action Plans on Tobacco Control or NCDs. This would ensure policy coherence and prevent circumvention of established, evidence-based tobacco control and other relevant public health laws.

3. To further consider how a potential financing mechanism could work [including a new standalone mechanism, a hybrid mechanism, or an existing mechanism]

Financing mechanisms should consider the polluters pay principle and the industry’s liability instead of accommodating voluntary contributions from the industry.

In the case of tobacco, WHO FCTC Art 19 provides for the cooperation of Parties in holding the tobacco industry liable for harms. WHO FCTC Art 13 prohibits tobacco industry contributions that would amount to advertisement, sponsorship, or promotion of tobacco products, brands, or companies. WHO FCTC Art 5.3 Guidelines recommends that Parties reject any tobacco industry contribution, initiative, or partnership offers. Given the treaty-based obligations, governments should design financing mechanisms that require mandatory payments/fees from the tobacco industry to fully compensate for past, present, and future plastic pollution and the actual costs of managing the litter and treating the waste. A conservative estimate of the tobacco’s plastic pollution cost per country is available, estimated at around 20B per year globally.

4. To identify options to mobilize and align private and innovative finance (including in relation to matters at 24(e) and the proposed Global Plastic Pollution Fee (GPPF))

Tobacco taxes should be recognized as a means to mobilize domestic resources and as an important source of development financing. In discussions on development financing and pandemic treaty financing, tobacco taxes have been recommended as a potential or viable source of funds. This is because increases in tobacco taxes have a public health benefit: In the US, a 10% increase in taxes could lead to a 7% decrease in consumption among the youth, even a decrease respiratory deaths by 1.5%. Under the WHO FCTC Art 6 Guidelines, Parties are encouraged to impose regular and significant increases in tobacco taxes. Additionally, the Guidelines provide that WHO FCTC parties could dedicate the additional revenues to health promotion. Administratively, tobacco taxes are a practical source of developmental financing because every country has some form of tobacco taxation imposed to increase revenues, improve health outcomes, and internalize tobacco’s negative externalities.

Additional Area Not Covered by CG1/CG2: Intersessional Work in the Tobacco Sector

Addressing tobacco’s toxic plastics, such as cigarette butt pollution (as well as the increasing e-cigarette waste), requires specific solutions to be formulated to ensure compliance with WHO FCTC and national tobacco control goals. As provided above, proposed solutions that may work for most plastics (e.g., circular economy, recycling, substitution, extended producer responsibility, stakeholder engagement) will
not work for the tobacco sector since these would undermine the objectives and implementation of the WHO FCTC. To preserve integrity, any intersessional work in the tobacco sector should be protected from the commercial and vested interests of the tobacco industry.

References


2 “CB was also the second most common plastic item (5.14 %) found on the Mediterranean seabed (<30 m below depth), confirming once again the high abundance of CB in this sea.”

3 Tobacco: Poisoning Our Planet, World Health Organisation, May 29, 2022, [https://www.who.int/publications/i/item/9789240051287](https://www.who.int/publications/i/item/9789240051287)


5 WHO FCTC Parties report that tobacco industry interference remains the single greatest obstacle to implementing the WHO FCTC.
*See*: WHO report on the global tobacco epidemic, 2023: protect people from tobacco smoke, World Health Organisation, July 31, 2023, [https://www.who.int/publications/i/item/9789240077164](https://www.who.int/publications/i/item/9789240077164)

See also: 2021 global progress report on implementation of the WHO Framework Convention on Tobacco Control, WHO Framework Convention on Tobacco Control, February 9, 2022, [https://fctc.who.int/publications/i/item/9789240041769](https://fctc.who.int/publications/i/item/9789240041769)

6 “Contact Group 1 focused on Section A: Objective(s). Section B: Substantive Obligations; Contact Group 2 focused on Sections C: Means of Implementation. D: Implementation measures. E: Additional matters as contained in part II of the Annex to document UNEP/PP/INC.2/4.”

7 “Fibers of less than 0.2mm in size were released from a single cigarette butt per day. The authors further estimated that roughly 300,000 tons of cellulose acetate filters would then be disposed of annually worldwide.”
*Source*: Novotny TE, Hamzai L, Cellulose acetate cigarette filter is hazardous to human health, Tobacco Control, Published Online First: 18 April 2023. doi: 10.1136/tc-2023-057925; citing: Belzagui F, Buscio V, Gutiérrez-Bouzán C, Vilaseca M. Cigarette butts as a microfiber source with a microplastic level of concern. *Sci Tot Environ* 2021;762:144165.100

8 “Cellulose acetate filters ... consist of 12,000-15,000 densely packed fibers. Filters fragment at approximately 15% weight loss per year in seawater, which exceeds the fragmentation rate of polyethylene terephthalate (PET)”
*Source*: Novotny TE, Hamzai L, Cellulose acetate cigarette filter is hazardous to human health, Tobacco Control, Published Online First: 18 April 2023. doi: 10.1136/tc-2023-057925; citing: Belzagui F, Buscio V, Gutiérrez-Bouzán C, Vilaseca M. Cigarette butts as a microfiber source with a microplastic level of concern. *Sci Tot Environ* 2021;762:144165.100

Pyrolysis occurs when solid organic matter is heated, resulting in the release of gases, oils, and char, hence the word’s etymological root of “loosening or change by fire”. It is an old technology, formerly applied by heating up wood to produce substances such as methanol, acetone, and creosote, prior to petrochemical refining routes. When wood is slowly pyrolysed the char is called ‘charcoal’; when coal is pyrolysed the char is called ‘coke’; and with plastics there is little or no char produced at all.”

Control Source: smoke, and NNN and NNK are the most carcinogenic. TSNAs have been found in substantial levels in tobacco leachates; nicotine was the main TSNAs of concern in leachates found that nicotine and ethylphenol may play significant roles in causing the toxicity observed in laboratory studies.

Nicotine and other tobacco alkaloids in tobacco produce additional toxic and potentially carcinogenic transformation products (TSNAs) that are formed in the post-harvest curing process and during combustion. The main TSNAs of concern are nitrosoanabasine (NAB), nitrosoanatabine (NAT), N’-nitrosonornicotine (NNN), and 4-(methylnitrosamino)-1-(3-pyridyl)-1-butanone (NNK). All four have been found in substantial levels in tobacco smoke, and NNN and NNK are the most carcinogenic. TSNAs have been found in leachates of cigarette butts.”

Source: Novotny TE, Hamzai L, Cellulose acetate cigarette filter is hazardous to human health, Tobacco Control Published Online First: 18 April 2023. doi: 10.1136/tc-2023-057925


36 Evans-Reeves, Karen et al. “The 'filter fraud' persists: the tobacco industry is still using filters to suggest lower health risks while destroying the environment.” *Tobacco control* vol. 31, e1 (2022): e80-e82. doi:10.1136/tobaccocontrol-2020-056245

37 ibid


42 Evans-Reeves, Karen et al. “The 'filter fraud' persists: the tobacco industry is still using filters to suggest lower health risks while destroying the environment.” *Tobacco control* vol. 31, e1 (2022): e80-e82. doi:10.1136/tobaccocontrol-2020-056245


Evans-Reeves, Karen et al. “The 'filter fraud' persists: the tobacco industry is still using filters to suggest lower health risks while destroying the environment.” *Tobacco control* vol. 31, e1 (2022): e80-e82. doi:10.1136/tobaccocontrol-2020-056245


46 How Should Tobacco Companies Pay for their Pollution? The Global Center for Good Governance in Tobacco Control (GGTC), 2022, https://tobacco plastics.ggtc.world/


"In the US, a 10% increase in cigarette taxes could decrease the number of deaths from respiratory cancers by 1.5%.”


Ibid